

EXHIBIT A

Gerard M. O'Rourke

From: Gerard M. O'Rourke
Sent: Friday, November 19, 2004 1:04 PM
To: 'spr@lahive.com'; Ingersoll, Josy
Cc: George Pazuniak; James M. Lennon
Subject: Emailing: Scheduling Order



Scheduling
Order.nrl (4 KB)

Your files are attached and ready to send with this message.

Sib,

Attached please find a revised version of the scheduling order that we believe comports with Chief Judge Robinson's comments. Unfortunately, Chief Judge Robinson does not transcribe these conferences so we cannot check our changes against a transcript. Let me know if this is acceptable and we will arrange for filing.

Very truly yours,

Jerry O'Rourke
(302) 888-6208

Gerard M. O'Rourke

From: Gerard M. O'Rourke
Sent: Tuesday, November 23, 2004 11:36 AM
To: 'spr@lahive.com'; Ingersoll, Josy
Cc: George Pazuniak; James M. Lennon
Subject: Emailing: Scheduling Order (3)



Scheduling Order
(3).DOC (78 K...)

Your files are attached and ready to send with this message.

Sib,

Attached is a copy of the revised scheduling order that we believe comports with Judge Robinson's rulings. Please contact me about any proposed changes.

Very truly yours,

Jerry O'Rourke
(302) 888-6208

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

VERSUS TECHNOLOGY, INC.,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 04-1231 (SLR)
)	
RADIANSE, INC.)	
)	
Defendant.)	
)	

SCHEDULING ORDER

This day of November 2004, the parties having satisfied their obligations under Fed. R. Civ. P. 26(f), and the Court having conducted a pretrial scheduling conference pursuant to Fed. R. Civ. P. 16 and D. Del. LR 16.2(a) and (b),

IT IS ORDERED that:

1. **Pre-Discovery Disclosures.** The parties have exchanged information pursuant to Fed. R. Civ. P. 26(a)(1) and D. Del. LR 16.2.
2. **Discovery.**
 - (a) Discovery will be needed on all claims, defenses and counterclaims allowed by the Court.
 - (b) All fact discovery shall be commenced in time to be completed by August 23, 2005.
 - (1) Document production shall be completed on or before March 18, 2005.
 - (2) Maximum of 25 interrogatories, inclusive of all subparts, by each party to any other party.

- (3) Maximum of 35 requests for admission by each party to any other party.
 - (4) In the absence of agreement among the parties or by order of the Court, no deposition (other than those noticed under Fed. R. Civ. P. 30(b)(6)) shall be scheduled prior to the completion of document production.
 - (5) Maximum of 10 fact depositions by each side. Each fact deposition shall be limited to a maximum of 7 hours unless extended by agreement of the parties. The limits on fact discovery agreed to by the parties above may be modified only by agreement of the parties or by leave of the Court.
 - (6) Defendant shall advise Plaintiff by May 27, 2005 whether it intends to rely on advice of counsel in defense to Plaintiff's charge of willful infringement. If Defendant intends to rely on the advice of counsel defense, it shall produce all documents within the scope of Defendant's waiver of privilege (as set forth by applicable case law) on or before May 27, 2005.
 - (7) Defendant's counterclaim for tortious interference with economic relationships is stayed for purposes of discovery and trial until further order of the Court.
- (c) Expert discovery shall be commenced in time to be completed by October 28, 2005.
- (1) Expert reports on issues for which the parties have the burden of proof are due August 26, 2005. Rebuttal expert reports are due September 30, 2005.

(2) Each side shall be entitled to depose each of the other party's testifying experts. Each expert deposition is to be limited to 1 day, unless extended by agreement of the parties.

(3) All *Daubert* motions shall be filed on or before the deadline set for dispositive motions, in conjunction with the briefing schedule in paragraph 6 below.

(d) Supplementation under Rule 26(e) are due in accordance with the Federal Rules of Civil Procedure.

(e) **Discovery Disputes.**

(1) The Court shall conduct in-person discovery status conferences on April 6, 2005 at 4:30 p.m., and September 13, 2005 at 5:00 p.m., or at any other dates and times convenient to the Court. The time at these conferences shall be allocated equally among the parties.

(2) The Court shall remain available to resolve by telephone conference disputes that arise during the course of a deposition and disputes over the terms of a protective order.

(3) Absent express approval of the Court following a discovery conference, no motions pursuant to Fed. R. Civ. P. 37 shall be filed.

(f) **Fact Witnesses to be Called at Trial.** Within one (1) month following the close of expert discovery, each party shall serve on the other parties a list of each fact witness (including any expert witness who is also expected to give fact testimony), who has previously been disclosed during discovery and that it intends to call at trial. Within one (1) month of receipt of such fact witness list,

each party shall serve a list of each rebuttal fact witness that it intends to call at trial. The parties shall have the right to depose any such fact witnesses who have not previously been deposed in this case. Such depositions shall be held within one (1) month after service of the list of rebuttal fact witnesses and shall be limited to twenty (20) hours per side in the aggregate unless extended by agreement of the parties or upon order of the Court upon good cause shown.

3. **Joinder of Other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before February 11, 2005.

4. **Settlement Conference.** Pursuant to 28 U.S.C. § 636, this matter is referred to Magistrate Judge Thynge for the purpose of exploring the possibility of a settlement.

5. **Claim Construction Issue Identifications.** If the Court does not find that a limited earlier claim construction would be helpful in resolving the case, on June 17, 2005, the parties shall exchange a list of those claim terms that they believe need construction and their proposed claim construction of those terms. This document will not be filed with the Court. Subsequent to exchanging such lists, the parties will meet and confer to prepare a Joint Claim Construction Statement to be submitted in conjunction with the briefing schedule in paragraph 7 below.

6. **Summary Judgment Motions.** All summary judgment motions shall be served and filed with an opening brief no later than November 23, 2005. Response briefs in opposition to motions for summary judgment shall be filed no later than December 9, 2005. Reply briefs in support of such motions for summary judgment shall be filed no later than December 16, 2005. No summary judgment motion may be filed more than ten (10) days from the above date without

leave of the Court. Oral arguments on summary judgment motions shall be heard on January 27, 2006 at 1 p.m.

7. **Claim Construction.** Opening briefs on issues of claim construction shall be simultaneously submitted by all parties to the Court, along with the Joint Claim Construction Statement, on November 4, 2005, to be considered by the Court in conjunction with the summary judgment motions. Response briefs on issues of claim construction shall be submitted to the Court no later than November 18, 2005.

8. **Applications by Motion.** Any application to the Court shall be by written motion filed with the clerk. The Court will not consider applications and requests submitted by letter or in a form other than a motion, absent express approval by the Court.

- (a) Any non-dispositive motion should contain the statement required by D. Del. LR 7.1.1.
- (b) No telephone calls shall be made to chambers.
- (c) Any party with an **emergency** matter requiring the assistance of the Court shall e-mail chambers at: slr_civil@ded.uscourts.gov. The e-mail shall provide a short statement describing the emergency. NO ATTACHMENTS shall be submitted in connection with said e-mails.

9. **Motions in Limine.** All motions in limine shall be filed on or before March 21, 2006. All responses to said motions shall be filed on or before March 28, 2006.

10. **Pretrial Conference.** A pretrial conference will be held on April 4, 2006 at 4:30 p.m., in Courtroom 6B, Sixth Floor, Federal Building, 844 King Street, Wilmington, Delaware. The Federal Rules of Civil Procedure and D. Del. LR 16.4 shall govern the pretrial conference.

11. **Trial.** This matter is scheduled for a three week jury trial commencing on May 15, 2006 in Courtroom 6B, Sixth Floor, Federal Building, 844 King Street, Wilmington, Delaware. For purposes of completing pretrial preparations, the parties should plan on being allocated a total number of hours in which to present their respective cases.

The Honorable Sue L. Robinson
United States District Judge